

Serial No.: 10/729,035  
Docket No.: ECV-5413CIP2CON1  
Amendment and Election dated March 1, 2006  
Responsive to Office Action dated February 3, 2006

**REMARKS**

Prior to the present Office Action, claims 1-30 were pending. Claims 24-30 have been cancelled, and therefore claims 1-24 remain pending.

Applicants acknowledge replacement of Examiner Hieu Phan with Examiner David J. Isabella, and trust that full faith and credit will be given to the previous search and actions.

Responsive to the Invention Restriction Requirement between:

Group I: Claims 1-23 drawn to a heart valve; and

Group II: Claims 24-30 drawn to a band,

Applicants elect without traverse the invention of Group I, claims 1-23, and cancel claims 24-30 accordingly.

Responsive to the Species Restriction Requirement between the 8 embodiments shown in:

Figs. 11, 17, 20A, 20B, 20C, 20D, 20E, and 22,

Applicants respectfully elect with traverse all of the species shown in the above figures. Currently, claims 1-24 read on all of the species because the Examiner has identified species defined by different stent embodiments. Both claims 1 and 13 include a flexible stent having alternating inflow cusps and outflow commissures. While claim 13 further defines the stent, none of the claims provides any distinction reflecting on the various stent embodiments shown in the identified drawings. Indeed, all of the claims are generic to the species identified by the Examiner. Applicants therefore traverse the requirement of a species election. It should be noted that even if one of the species had been elected, all of claims 1-24 would read on it and none would be canceled.

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Applicants note the previous allowance of claims 1-12 and the following:

#### 706.04 Rejection of Previously Allowed Claims [R-1]

A claim noted as allowable shall thereafter be rejected only after the proposed rejection has been submitted to the primary examiner for consideration of all the facts and approval of the proposed action.

Great care should be exercised in authorizing such a rejection. See *Ex parte Grier*, 1923 C.D. 27, 309 O.G. 223 (Comm'r Pat. 1923); *Ex parte Hay*, 1909 C.D. 18, 139 O.G. 197 (Comm'r Pat. 1909). ...

#### PREVIOUS ACTION BY DIFFERENT EXAMINER


Full faith and credit should be given to the search and action of a previous examiner unless there is a clear error in the previous action or knowledge of other prior art. In general, an examiner should not take an entirely new approach or attempt to reorient the point of view of a previous examiner, or make a new search in the mere hope of finding something. *>Amgen, Inc. v. Hoechst Marion Roussel, Inc.*, 126 F. Supp. 2d 69, 139, 57 USPQ2d 1449, 1499-50 (D. Mass. 2001).<

Because it is unusual to reject a previously allowed claim, the examiner should point out in his or her office action that the claim now being rejected was previously allowed by using Form Paragraph 7.50.

In view of the previous and current amendments and remarks, Applicants believe the claims are in condition for allowance. If there are any issues remaining, the Examiner is invited to contact the undersigned by telephone.

Respectfully submitted,

Date: March 1, 2006

  
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